As Professor Pritchard more succinctly states in his executive summary, "the data suggest that common ownership of a newspaper and a television station in a community does not result in a predictable pattern of news coverage and commentary about important political events in the commonly owned outlets."[147]

Another empirical study by Professor Pritchard submitted last spring in the Commission's local radio ownership proceeding (MM Docket Nos. 01-317 and 00-244) corroborates these results.[148] This analysis, which is attached for convenience as Appendix 5, surveyed the growth in local media outlets providing local content in five variously-sized markets at ten-year intervals from 1942 to 2002 as well as in 1995, just prior to adoption of the Telecommunications Act of 1996. In these five markets, which included Lisbon, North Dakota; Florence, South Carolina; Rockford, Illinois; Syracuse, New York; and New York, New York, Professor Pritchard found a consistent increase in the availability of diverse local sources of news and information that was not undercut by any trend in consolidation of ownership:

> The data presented in this study make it clear that the number of media outlets focusing on news and information about local events has increased steadily over the years. That the rate of increase has accelerated since the Telecommunications Act of 1996 was passed suggests that the economic consolidation that ensued did not diminish diversity of local media content. The patterns in all five of the communities we studied were similar.[149]

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[147] *Id.* at "Executive Summary."

[148] David Pritchard, "The Expansion of Diversity: A Longitudinal Study of Local Media Outlets in Five American Communities," March 2002, attached as Appendix A to Viacom Inc.'s Comments in MM Docket Nos. 01-317 and 00-244, filed March 27, 2002. This radio ownership proceeding has now been combined in the instant docket and the record incorporated by reference herein. *2002 NPRM* at ¶11 n.31.

[149] Appendix 5 at 22. While Media General currently owns newspaper and television properties in the Florence-Myrtle Beach DMA, these acquisitions were made only at the very tail end of the time period under review in Professor Pritchard's radio study.

As Professor Pritchard concludes, "[t]he study presented here further challenges the wisdom of focusing on issues of ownership to attempt to maximize access to diverse media outlets."[150]

Thus, all three Pritchard studies support repeal of the newspaper/broadcast cross-ownership rule. While Media General has never seen a connection between ownership and viewpoint and, therefore, questions why studies regarding content are even necessary, Professor Pritchard's reviews put to rest once and for all that, no matter what the market size, common ownership does not result in common approaches to the presentation of news and public affairs and does not harm the presentation of diverse viewpoints and diverse local content.

4. *Measurement of TV News and Public Affairs.*

Another study authored by members of the FCC staff sought to measure the news and public affairs broadcast by television stations for purposes of comparing the performance of stations owned by one of the four largest broadcast networks relative to that of their affiliates.[151] This study also provides empirical information demonstrating that repeal of the newspaper/broadcast cross-ownership rule would be unlikely to harm the delivery of news and public affairs. In fact, it suggests repeal would have beneficial effects.

The study attempted to measure the quantity and quality of news and public affairs programming. For an assessment of quantity, the study tallied the hours of programming aired during the November 2000 sweeps period.[152] For quality, it used three measures: (1) ratings for

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[150] *Id.*

[151] Thomas C. Spavins, *et al.*, "The Measurement of Local Television News and Public Affairs," undated ("Spavins Study"). The study states that the views it expresses do not necessarily reflect those of the agency. The study is not paginated. Citations assume that the first page following the "Executive Summary" is page 1.

[152] *Id.* at 1.

local evening news programs; (2) awards from the Radio and Television News Directors Association; and (3) an award called the Silver Baton issued at the A.I. Dupont Awards.[153]

Among network affiliates, the study found a "systematic divergence" in performance between stations that were co-owned with a newspaper and all other affiliates.[154] "For each quality and quantity measure in the analysis, the newspaper affiliates exceed the performance of other, non-newspaper network affiliates."[155]

This study confirms what Media General already knows: through convergence, television stations can deliver a better, faster, and deeper news product. As the long list of awards given to Media General's co-owned properties that is listed in Appendix 4 shows, convergence will benefit the public interest.

5. *Advertising Substitutability.*

The results of a study by another FCC staff member on the substitutability of local newspaper and television advertising additionally support repeal of the newspaper/broadcast cross-ownership rule.[156] This paper examines the issue of whether there is a single local advertising market or several distinct local markets for newspaper, radio, and television advertising by estimating the ordinary own-price and cross-price elasticities of substitution for newspaper, radio, and television advertising.[157] While the author cautions that there are

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[153] *Id.*

[154] *Id.* at 4.

[155] *Id.*

[156] C. Anthony Bush, "On the Substitutability of Local Newspaper, Radio and Television Advertising in Local Business Sales," September 2002, FCC Media Bureau Staff Research Paper, 2002-10 ("Study No. 10"). The study explicitly states that the views it expresses are not those of the agency. While the study also discussed radio advertising, because Media General's focus is on newspaper and television, it does not address that aspect of the report.

[157] *Id.* at 4.

limitations inherent in the underlying data,[158] the results suggest that local newspaper and television advertising are complementary inputs in the sales efforts of local businesses.[159] As such, they are in separate markets, meaning there is no justification from an economic standpoint for prohibiting their common ownership.

First, the study estimates the ordinary own-price elasticities of substitution for newspaper, radio, and television advertising. It determined the estimated own-price elasticity of television advertising to be – 0.7960.[160] This finding that television advertising's own-price elasticity is less than one in absolute value indicates that the industry is operating in the inelastic portion of its demand curve. The result suggests that, if a single firm acquired control of all the television stations within a DMA, that firm could profitably raise price. Next, the study finds that the estimated own-price elasticity of newspaper retail advertising is – 1.0406.[161] This finding that newspaper retail advertising's own-price elasticity is just slightly greater than one in absolute value is consistent with a high likelihood that, if there were a single firm controlling all newspapers within a DMA, that firm could profitably raise prices. These results indicate that television advertising and newspaper retail advertising are each likely to constitute separate markets.

The study also finds that the cross-price elasticities for newspaper retail advertising and local television advertising are negative.[162] This result implies that newspaper and television advertising are complements. That is, if the price of newspaper advertising increases, then not

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[158] *Id.* at 12-13.

[159] *Id.* at 14.

[160] *Id.* at 12.

[161] *Id.*

[162] *Id.*

only does the amount of newspaper advertising decrease, but the quantity of television advertising also decreases. In like fashion, if the price of television advertising increases, then not only does the amount of television advertising decrease, but the amount of newspaper advertising also decreases.

The author's results demonstrate that television and newspapers do not, from an economic standpoint, directly compete for advertising, a result that further supports the elimination of the newspaper/broadcast cross-ownership rule. Indeed, given the author's finding of a complementary relationship between newspaper and television advertising, a company that owned both a newspaper and a television station in the same DMA has less incentive to increase its newspaper or television advertising prices than does a company that just owns either a newspaper or a television station in that same DMA. This study shows that the Commission has no reason to find that the newspaper/broadcast cross-ownership rule is "necessary in the public interest as the result of competition."

6. *Consumer Substitutability Among Media.*

In another study released by the FCC, Professor Joel Waldfogel of the University of Pennsylvania attempts to answer the question whether changes in the availability or use of some media bring about changes in the availability or consumer use of other media.[163] While his study may shed some light on consumer preferences for various media, it provides no insight into the effect of changes in media ownership on media usage, and, as noted below, suffers from a serious methodological error and also fails to synthesize earlier studies it cites with the more recent data it presents.

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[163] Joel Waldfogel, "Consumer Substitution Among Media," FCC Media Ownership Working Group, 2002-3, September 2002 ("Study No. 3").

Professor Waldfogel's study rejects the view that various media are entirely distinct and provides purported evidence of what he describes as substitutability by consumers between and among various media outlets. In Part I, he presents examples of consumer substitution across media.[164] In Part II, he presents examples of substitution between various combinations of media.[165] Professor Waldfogel notes that, for "technical reasons," the true extent of substitution may be greater than indicated in his study.[166] The most notable finding is that consumers would readily substitute Internet usage for television viewing, both overall and for news.[167]

Professor Waldfogel's conclusions, however, are extremely suspect due to a serious methodological error in the first part of his paper. The study claims that the measure of "households using television" represents an overall measure of television viewing, excluding cable.[168] In reality, the "households using television" measure has generally captured not just the viewing of broadcast television stations but also the viewing of cable and satellite television programming and the videotaping of television programming.[169] Contrary to the claims in his study, this measure does not capture just broadcast television viewing. Any substitution, therefore, that the study finds between a particular medium (such as newspapers) and television is not really a valid measure of substitution between that medium and broadcast television, but rather a measure of substitution between that medium and all television viewing, including the

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164 *Id.* at 5-24.

165 *Id.* at 25-41.

166 *Id.* at 6-7.

167 *Id.* at 3.

168 *Id.* at 14.

169 *See, e.g.*, National Cable Communications (visited Dec. 30, 2002) <http://www.spotcable.com/asp/abo/glossary.asp?section=publicresources&sub=glossary>; Charter Media (visited Dec. 30, 2002)

viewing of over-the-air television and cable and satellite services and the videotaping of television programming.

Even if Professor Waldfogel's paper were flawless, it provides no basis to assess whether the current cross-ownership rule remains necessary in the public interest as the result of competition. Whether consumers substitute from one medium to another or not is not a sufficient basis for finding the cross-ownership rule to be necessary in the public interest. Consumers no doubt substitute among newspapers or substitute among weekly newspapers or news magazines or substitute among Internet sites, but there is no rule at the FCC -- or any other government agency -- *limiting the cross-ownership of such media assets.* Acquisitions of such assets are, however, reviewed by appropriate antitrust authorities. Demonstration of substitutability or the presence of a "market," from an antitrust standpoint, is not a basis that the newspaper/broadcast cross-ownership rule, or any rule, remains necessary in the public interest.

In summarizing his conclusions, Professor Waldfogel refers to results from earlier papers he has authored on voting behavior;[170] however, there is nothing in the present study that examines voting behavior or that could be used to support or contradict any previous study of voting behavior. The present study is sufficiently different in its purpose and methods that its conclusions should not be compared with the voting behavior studies for purposes of testing for consistencies. Thus, the references to and reliance upon the voting behavior studies are beside the point when evaluating the conclusions Professor Waldfogel posits regarding consumer substitution among media. In short, Professor Waldfogel's study is of extremely limited utility

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<http://www.chartermedia.com/cm/aboutcable/glossary.asp>; Nielsen Media Research, *Your Guide to Reports & Services* at 2 (1996).

[170] Study No. 3 at 40.

in analyzing the newspaper/broadcast cross-ownership rule, even if its methodological flaws are overlooked.

* * * *

By themselves, these six studies do not provide any foundation for retaining the newspaper/broadcast cross-ownership rule. They separately and collectively undermine any attempt to find that the rule is necessary in the public interest as the result of competition. They show the dramatic growth of new media and most, with the exception of newspapers, of the more traditional media outlets; the increasing use of new media by the American public; the lack of any connection between content and ownership; the better public service provided by newspaper-owned television stations when compared to other television stations; the complementary nature of newspaper and television advertising from a competitive standpoint; and, at most, that consumers would readily substitute Internet usage for television viewing. In short, they presage no damaging effect from elimination of the newspaper/broadcast cross-ownership rule. Ultimately, these studies support its repeal.

V. Diversity of Ownership Never Did and Now Clearly Does Not Bear a Credible Link to Diversity of Viewpoint, and the Commission's Responsibility To Foster Competition, Localism, and Innovation Requires Repeal of the Rule.

A. Given That Diversity of Ownership Is, at Best, an "Aspirational" Proxy for Diversity of Viewpoint, the FCC Cannot Reasonably Determine That the Newspaper/Broadcast Cross-Ownership Rule Is Necessary in the Public Interest.

In the course of remanding the FCC's decision on the national television ownership cap, the court in *Fox* addressed the FCC's reliance on diversity as a rationale in support of that rule.[171] Even though the panel posited that diversity of ownership may not always be an irrational proxy

[171] *Fox*, 280 F.3d at 1042-1043, 1047.

DOW, LOHNES & ALBERTSON, PLLC
ATTORNEYS AT LAW

WASHINGTON, D.C.

1200 NEW HAMPSHIRE AVENUE, N.W. • SUITE 800 • WASHINGTON, D.C. 20036-6802
TELEPHONE 202-776-2000 • FACSIMILE 202-776-2222

April 22, 2003

VIA HAND DELIVERY

The Honorable Kathleen Q. Abernathy
Federal Communications Commission
445 12th Street, SW, Room 8-B115
Washington, DC 20554

Re: Follow-Up to Recent Office Visit
Omnibus Media Ownership Proceeding
(MB Docket No. 02-277; MM Docket Nos. 01-235, 96-197, 01-317, and 00-244)

Dear Commissioner Abernathy:

On behalf of Media General, Inc. ("Media General"), we are submitting this letter to follow up on the March 24th meeting that George Mahoney of Media General and we had with you and your staff. In that meeting, Media General expressed its continuing belief that the record that has been compiled in the above-referenced dockets supports only one course of action -- the complete elimination of the newspaper/broadcast cross-ownership rule without a replacement rule that in any manner restricts cross-ownership of newspapers and broadcast facilities. In our discussion, you indicated that you understood from staff that several items in the record might not fully support that position, and you suggested that, if Media General felt differently, it should supplement the record. This letter is being filed in response to that suggestion and to supplement the record on elimination of the newspaper/broadcast cross-ownership rule.[1]

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[1] In the above-referenced dockets, Media General has filed extensive factual materials based on its experience in operating combined newspaper and television properties in six Designated Market Areas ("DMAs"), which show, among other things, the diverse array of choices available in those markets, and include studies it has commissioned demonstrating why repeal of the newspaper/broadcast rule will not have an adverse effect on competition and will have a beneficial effect on the availability of diverse news and information. These Media General filings also address the issues discussed below and further demonstrate why the rule must be repealed in its entirety. *See* Reply Comments of Media General, Inc., in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317, and 00-244, filed Feb. 3, 2003 ("*Media General 2003 Reply Comments*"); Comments of Media General, Inc., in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317, and 00-244, filed January 2, 2003 ("*Media General 2003 Initial Comments*"); Reply Comments of Media General, Inc., in MM Docket Nos. 01-235 and 96-197, filed February 15, 2002 ("*Media General 2002 Reply Comments*"); and Comments of Media

To our knowledge, the studies or research that have been mentioned as possibly supporting some remaining vestige of the rule are as follows: "Consumer Substitution Among Media," by Joel Waldfogel, Federal Communications Commission Media Ownership Working Group, 2002-3, September 2002 ("*Waldfogel Study*"); "Consumer Survey on Media Usage," Nielsen Media Research, Federal Communications Commission Media Ownership Working Group, 2002-8, September 2002 ("*Nielsen Survey*"); and "Surveying the Digital Future -- Year Three," UCLA Center for Communications Policy, February 2003 ("*UCLA Internet Report*").

Since our meeting, we have again reviewed these materials and also sought input on the *Waldfogel Study* from two leading economists, Jerry A. Hausman of the Massachusetts Institute of Technology and James N. Rosse, formerly a professor and Provost at Stanford University. Based on this review and the analyses provided by Professors Rosse and Hausman, we remain convinced that these materials do not support retention of the newspaper/broadcast cross-ownership rule. In a number of important ways, the studies rather support its complete repeal.

Professor Hausman, one of the most eminent economists in the United States, notes that no economic study provides a basis to support retention of the current cross-ownership rule or any similar future rule given other federal laws to protect consumers. Professor Hausman further observes that these rules are not benign, but have the potential to harm consumers. Professor Hausman is particularly skeptical of the forms and uses of a "diversity index" frequently mentioned in the trade press. "[A]ny attempt to create a 'diversity index' based on market structure measures would be arbitrary and not have a basis in economic theory. An arbitrary 'diversity index' would not predict either the economic performance or amount of diversity that would follow after the merger of two firms."[2]

Remarkably, neither Professor Waldfogel nor those who prepared the other studies discussed herein, claim that any of these studies provides an empirical basis necessary for the retention of the newspaper cross-ownership rule, or any similar rule. To the extent such inferences about the necessity of cross-ownership restrictions have been drawn, they are not by those most familiar with the strengths and limitations of the studies: their authors.

1. *Waldfogel Study*.

In his study, which was commissioned by the FCC, Professor Joel Waldfogel uses correlation and regression techniques to study patterns of media supply and media usage by consumers. When he finds measures from two media co-varying negatively, he describes the particular media as "substitutes" for one another. Although he places less emphasis on it, he recognizes positive covariance between two media as "complementary." For Media General, the findings of interest in Professor Waldfogel's study are that overall uses of broadcast television and daily newspapers have a complementary relationship but a substitute relationship when

General, Inc., in MM Docket Nos. 01-135 and 96-197, filed Dec. 3, 2001 ("*Media General 2001 Initial Comments*").

[2] Statement of Jerry A. Hausman, attached as Exhibit 2, at ¶ 12.

comparing the "gap" or differences between broadcast television news and broadcast entertainment usage to daily newspaper usage.[3]

Professor Waldfogel used two sets of data to study consumers' media usage patterns and develop his findings. The first body of data consisted of combined cross-section and time-series data from several published services. It included data on media usage by consumers, numbers of media, and demographic information from the 140 DMAs in the nation for which Metropolitan Statistical Areas and Arbitron metro areas can be linked to the DMAs. Professor Waldfogel used annual data for various time periods from 1993 to 2000, depending on the availability of the information. The media that he surveyed included television, daily newspapers, weekly newspapers, radio, cable television, and the Internet.

Professor Waldfogel's second body of data was drawn from Scarborough Research and consisted of survey responses from nearly 180,000 individuals collected in the latter half of 1999 and first half of 2000. The respondents reported on their usage of newspapers, television, cable and satellite, radio, and the Internet. Demographic data on the respondents were also available.

a. Professor Rosse

In the critique attached to this letter as Exhibit 1, Professor Rosse provides a very detailed analysis of the problems with Professor Waldfogel's use of both sets of data. Professor Rosse concludes that the analysis of the first data set, which is set forth in Part I of the *Waldfogel Study*, produced no "significant results."[4] Rather, as Professor Rose notes,

> In the end, the most optimistic statement he can make is that "we conclude our analysis of the aggregate data with the observation that there is some evidence of consumer substitution across the media." From this part of the study, he reports no results whatsoever regarding the specific relationship between daily newspapers and broadcast television. For these two media, there is no report of measures based on his concept of "substituting" much less the actual definition of substitution. Thus, this part of the study cannot inform the FCC's evaluation of the newspaper cross-ownership rule.[5]

Professor Rosse next analyzes Professor Waldfogel's use of the second set of data and concludes that the data simply do not permit any inference of substitutability or complementarity among media products, but rather the results in Part II of the *Waldfogel Study* merely depict

[3] *Waldfogel Study* at 3, 33-34, and Tables 10-14 at 73-76.

[4] Rosse at 4.

[5] Rosse at 4 (footnotes omitted).

consumer preferences among media, "no more and no less."[6] Professor Rosse explains this conclusion as follows:

> The only way that either complementarity or substitutability could be established is if there were a change in the availability and/or quality of one product that had a resulting effect on usage of the other. Since this data set is a single cross-section and in the absence of a full-blown structural model, it simply does not permit that kind of experiment.[7]

As Professor Rosse notes, Professor Waldfogel recognized this shortcoming himself when he stated, "'One cannot draw firm inferences about substitutability from the data directly without additional assumptions.'"[8]

Professor Rosse also takes great pains to explain why Professor Waldfogel's construction of a "news-entertainment gap" from which he draws his supposedly strong evidence of TV news and daily newspaper substitutability was flawed. The repeatedly "negative interaction" of the relevant variables, which Professor Waldfogel's study produces and which result in his conclusion of substitutability, simply follows from his taking what is generally a fairly large number and always subtracting it from a relatively small number, consistently ensuring that the constructed variable takes on a negative value.[9] In sum, Professor Rosse notes:

> Previously, we established the fact that Professor Waldfogel's conclusion that newspapers serve as substitutes for news is based on an incomplete experiment that makes the inference of substitutability unjustified. Now it is clear that it is also based on . . . seriously flawed and quite meaningless empirical results . . . . Thus, this part of the study cannot inform the FCC's evaluation of the newspaper cross-ownership rule. Indeed, there is a significant risk that this faulty result could misinform the FCC's evaluation.[10]

As Professor Rosse states in the final section of his critique, in the 1960s and 1970s he supported adoption of the newspaper/broadcast cross-ownership rule and submitted an empirical study supporting that result to the Commission in 1970.[11] Since then, however, he has observed drastic changes in the media marketplace, changes which he chronicles at length. He also notes

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[6] Rosse at 5.

[7] Rosse at 5 (emphasis in original).

[8] *Id.*

[9] Rosse at 6.

[10] Rosse at 6 (footnote omitted).

[11] Rosse at 8 n.14, *citing* "Economic Issues in the Joint Ownership of Newspaper and Television Media," by James N. Rosse, Bruce M. Owen, and David L. Grey, May 1970.

that improvements in technology also now make the melding of newspaper and broadcast journalism much more successful.[12] "What all this means is that repealing the cross-ownership rule cannot help but be successful. There is ample competition from close substitutes to ensure that monopolization does not take place in the marketplace of ideas or in the related economic markets . . . ."[13]

On the subject of the *Waldfogel Study*, in particular, however, Professor Rosse leaves us with the following conclusion:

> The empirical work in Professor Waldfogel's paper has such flaws that the quantitative results do not provide a meaningful basis for governmental review of a regulation. Moreover, even if the empirical work had been flawless, the structure of that work would not reveal the underlying measures of substitution, complementarity, or any other useful information to evaluate the economic merit of a regulation. Consequently, the study does not inform the FCC's evaluation of the newspaper cross-ownership rule and, if taken seriously, could even mislead that evaluation.[14]

In short, "certainly none of the results provides any support for continuation of the newspaper cross-ownership rule."[15]

b. Professor Hausman

In his review, attached hereto as Exhibit 2, Professor Hausman similarly notes that Professor Waldfogel's claim that his regression results provide evidence of media substitution is incorrect:

> An alternative interpretation of his results is that consumers prefer to obtain their news from a particular media. Some people may mainly rely on newspapers while other people rely on TV for their main source of news. This interpretation would result in a negative correlation between news use of one medium and news use of other media. Because of this alternative explanation, Prof. Waldfogel's regression results cannot be used to claim that different media serve as substitutes for one another.[16]

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[12] Rosse at 8.

[13] Rosse at 8-9.

[14] Rosse at 1.

[15] Rosse at 9.

[16] Hausman at ¶ 14 (footnote omitted).

As an additional problem, Professor Hausman notes that Professor Waldfogel's analysis "focuses entirely on statistical significance and not economic significance."[17] Given the large number of observations -- almost 180,000 -- involved in Professor Waldfogel's individual-level regressions, Professor Hausman states that it is "not surprising" that all of the coefficients in a particular table upon which Professor Waldfogel relies to conclude, among other things, that newspapers serve as substitutes for TV news, are statistically different from zero at the 1% level.[18] A statistically significant coefficient, however, is not necessarily economically significant, and an analysis of the economic significance of his coefficient leads to a very different conclusion.[19] "Prof. Waldfogel's failure to consider the economic significance of his results provides yet another reason his results cannot be relied upon."[20]

In his statement, Professor Hausman also makes two additional points, first about the effect that his earlier studies, which have already been lodged in this record, may have on the newspaper/broadcast cross-ownership rule and then about proposals to utilize a "diversity index." His first study, which was filed in one of the dockets related to this proceeding, found that consolidation in the radio industry has not led to higher prices for radio advertising and has resulted in increases in format diversity.[21] His second study, which focused on particular radio markets, similarly demonstrated that consolidation has not led to higher radio advertising prices, even where the top two firms controlled more than eighty percent of the market's revenue, and also showed a statistically significant relationship between increases in cable television advertising prices and the price of radio advertising. Lest the conclusions on market definition in these studies be read as implying any support for retention of the newspaper/broadcast cross-ownership rule, Professor Hausman states:

> I am aware of no economic study, and certainly none that I have authored, that would conclude that any form of newspaper/broadcast cross-ownership rule administered by the FCC would be economically superior to relying instead on the antitrust reviews of the federal antitrust agencies. Indeed, to the extent that such a rule raises the costs of economically beneficial exchanges, and would prohibit many useful exchanges, such a newspaper/broadcast cross-ownership rule decreases both economic efficiency and consumer welfare.[22]

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[17] Hausman at ¶ 15.

[18] *Id., discussing* Table 14, p. 76 of *Waldfogel Study.*

[19] Hausman at ¶ 15.

[20] *Id.*

[21] Hausman at ¶ 5.

[22] Hausman at ¶ 9.

Moreover, as he explains, the observation that advertising markets may include both newspaper and broadcast outlets is not a basis of support for retention of the newspaper/broadcast cross-ownership rule.[23] "While the government may have non-economic objectives to intervene in markets such as the newspaper/broadcast cross-ownership rule, such a rule cannot rely on economic studies, including mine, for support."[24]

Finally, in his statement, Professor Hausman addresses the concept of a "diversity index." He notes that "there is no economic theory that links diversity-related outcomes to underlying market structures." Moreover, a "diversity index" would not "yield predictions of changes in diversity in a market, following a merger of two firms" because merged firms may find it profitable to increase the diversity of their content offerings, as Professor Hausman's previous empirical research, on file with the Commission, has shown. [25] Given the likely possibility of such increases, Professor Hausman concludes, "*[A]ny attempt to create a 'diversity index' based on market structure measures would be arbitrary and not have a basis in economic theory. An arbitrary 'diversity index' would not predict either the economic performance or amount of diversity that would follow after the merger of two firms.*"[26]

2. *Nielsen Survey*

The *Nielsen Survey*, which was commissioned by the FCC and released by the agency last fall, reports the results of telephone interviews with 3,136 respondents whom Nielsen Media Research queried by telephone in late August and early September 2002 regarding their use of media.[27] The pool of consumers from which the respondents were drawn had recently completed television diaries in the February and May 2002 "sweeps" measurement periods.[28] As a result, the group's composition may have been slightly biased in favor of video watchers versus print readers. In addition, the average and median ages of the respondents were in their mid-forties,[29] so the pool of respondents likely was skewed against Internet usage.[30] Nonetheless, although the

[23] Hausman at ¶ 10.

[24] *Id.* at ¶ 12.

[25] *Id.*

[26] *Id.* (emphasis added).

[27] *Nielsen Survey,* "Federal Communications Commission Telephone Recontact Study Weighted Data," at 10 (attached to *Nielsen Survey*).

[28] *Id.* at 5.

[29] *Nielsen Survey* at Table 095.

[30] U.S. Department of Commerce, Economics and Statistics Administration, National Telecommunications and Information Administration, *A Nation Online: How Americans Are Expanding Their Use of the Internet* at 14 (February 2002), *available at* http://www.esa.doc.gov/508/esa/USEconomy.htm. While this study shows that since December 1997, the age range of individuals more likely to be computer users has been rising, children and teenagers are still the most likely members of the overall population to be computer users.

results of the *Nielsen Survey* show that the American public, in many instances, continues to utilize more traditional news sources, such as television, newspaper, and radio, to obtain local and national news, it makes equally clear that many new entrants have captured the public's attention and have seriously eroded the dominant positions the more traditional media outlets held in 1975 when the newspaper/broadcast cross-ownership rule was adopted. The *Nielsen Survey* results are particularly telling in three ways: they demonstrate significant and growing reliance on the Internet for news and public affairs information; they show that cable and satellite subscription services have made measurable inroads in the use of over-the-air broadcast television; and they document the substantial use of weekly newspapers, further evidencing the growing erosion of the market occupied by daily newspapers.

Internet Growth. The *Nielsen Survey* demonstrates that consumers are making substantial use of the Internet in seeking information about current events and public affairs. When asked to name the list of sources they had used for *local* news and current affairs within the preceding seven days, 18.8 percent, or almost one-fifth, of the group responded that they had used the Internet without hearing any list of suggested sources.[31] When those who did not volunteer use of the Internet were presented with a follow-up question asking specifically if they had used it as a source of *local* news and public affairs in the preceding week, another 18.5 percent, or again almost one-fifth of those questioned, answered affirmatively.[32] When the same questions were asked about *national* news, 21.3 percent, or even more respondents, volunteered that they had used the Internet.[33] Of those that had not volunteered their usage of the Internet to obtain *national* news, some 12.7 percent admitted such use when specifically queried.[34]

When a slightly smaller group of respondents, those who admitted to obtaining any *local* news and current affairs in the last week, were then asked if they had used the Internet to gain access to local news and current affairs, 34.2 percent responded affirmatively.[35] When a similar group was asked the same question but about *national* news and public affairs, a consistent 32.2 percent responded affirmatively.[36]

In the overall pool of respondents, a large number admitted access to the Internet. Some 79.2 percent, or almost four-fifths, responded that they have access at home, work or both.[37] When respondents were asked to list which media they might utilize more or less in the future, the Internet, among all listed media, was the source that gained the highest percentage of "more

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[31] *Nielsen Survey*, Table 001.

[32] *Id.* at Table 002.

[33] *Id.* at Table 009.

[34] *Id.* at Table 010.

[35] *Id.* at Table 097.

[36] *Id.* at Table 098.

[37] *Id.* at Table 077.

often" responses -- 24.7 percent, further presaging the Internet as an even more dominant source of news.[38]

Cable Television/Satellite-Delivered Video. The *Nielsen Survey* results also showed significant growth in the role of subscription video services, like cable and satellite, in the daily lives of Americans. Of respondents who answered that television is one of their sources of *local* news and public affairs, 67 percent said that they watch such news on broadcast television channels, and 58 percent, or almost as many, said that they watch cable or satellite news channels.[39] When the same question was asked about sources of *national* news and current affairs, an even larger number, or 65.5 percent, listed cable or satellite news channels compared to 62.8 percent for broadcast news channels.[40]

A slightly smaller group of respondents, those who had said they get local or national news from various sources, were asked to name the source that they used most often. While almost one-third, or 33.1 percent, cited broadcast television channels, a surprisingly large number, or 23.3 percent, listed cable or satellite news channels, a figure that exactly matched the percentage of respondents who cited daily newspapers as the single source they use more often.[41]

Respondents who named a particular medium as the one that they used most often as their source for local or national news were also asked how likely, on a scale of one to five, they would be to use another suggested source if their preferred source were no longer available. A rating of "5" represented "much more likely" and "1" meant "no more likely." When the numbers for those who rated a specified substitute as either a "5" or a "4" were tallied, cable or satellite news channels beat out daily newspapers among all respondents except those who had listed either weekly newspapers or magazines as their first preferred source.[42] When all respondents were queried about what source they would be more likely to use for national or local news and current affairs in the future, cable and satellite channels came in second behind the Internet.[43]

Finally, among the respondents, many more households paid to receive subscription video services than subscription print services. Specifically, when all respondents were asked to

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[38] *Id.* at Tables 070 through 076.

[39] *Id.* at Table 008. As the notations in many of the tables state, percentages of responses may sum to more than 100 percent due to multiple responses.

[40] *Id.* at Table 016. Again, multiple responses are responsible for causing the percentages to total more than 100 percent.

[41] *Id.* at Table 020.

[42] For those who listed broadcast as their number one source, *compare Nielsen Survey*, Table 021 *with* Table 024; for those preferring the Internet, *compare* Table 034 *with* Table 036; for those preferring radio, *compare* Table 058 *with* Table 061.

[43] *Id.* at Table 070 through Table 076.

list the subscription services, if any, that they received, 62 percent said cable, 20.5 percent said satellite, 49.8 percent said daily newspaper, and 24.0 percent said weekly newspaper.[44] When the cable and satellite percentages are summed, they show that 83.4 percent of the respondents subscribed to a paid video source.[45]

Weekly Newspapers. The results for the survey also show that weekly newspapers have a strong response rate vis-à-vis dailies in terms of readership. When the respondents who had not mentioned reading a weekly newspaper in the last seven days were specifically asked if they had done so, almost one-third, or 27.5 percent, responded affirmatively.[46] When those respondents who had said they obtained their news from a newspaper were asked to specify whether it was a daily, weekly, or both, 10.2 percent said weekly only and 27.3 percent, or again almost one-third, said they subscribe to both.[47]

The information on consumer preferences included in the *Nielsen Survey* shows that daily newspapers and television stations face serious competition for consumers' attention from newer media entrants. This competition, which is sufficiently significant to guarantee a robust market for news and information, shows that retention of the newspaper/broadcast cross-ownership rule is unwarranted.

3. *UCLA Internet Report*

The *UCLA Internet Report*, the third in a series of annual reports by the UCLA Center for Communications Policy, released two months ago, leaves no doubt that the Internet has become an important media resource for consumers, and it demonstrates that consumers' use of this new medium has come at the expense of more traditional sources. For the third straight year, the *UCLA Internet Report* found that, overall, Internet access hovered around 70 percent, with 71.1 percent of Americans going online in 2002, compared to 72.3 percent in 2001, but up from 66.9 percent in 2000.[48] The number of hours online and access from home, in particular, continue to increase more dramatically, however, with the average weekly hours online rising to 11.1 in 2002, up from 9.8 hours in 2001 and 9.4 hours in 2000. The report also found that 59.4 percent

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[44] *Id.* at Table 079.

[45] *Id.*

[46] *Id.* at Table 081.

[47] *Id.* at Table 007.

[48] *UCLA Internet Report* at 17. The study deemed the change in percentages between 2002 and 2001 to be statistically insignificant. *Id.* The *UCLA Internet Report* was based on telephone interviews with 2,000 households throughout the 50 states and the District of Columbia. *Id.* at 86.

of users have access at home, up from 46.9 in 2000, the first year of the project.[49] Of the five most popular Internet activities, "reading news" ranked third behind "e-mail and instant messaging" and "web surfing or browsing."[50]

Perhaps most significant for the FCC's evaluation of media ownership is the fact that growth of the Internet has come at the expense of the more traditional media, with Internet use increasingly supplanting time previously spent with other media. For example, the *UCLA Internet Report* made very clear that in 2002 all Internet users on average watched 11.2 hours of television per week or 4.8 hours less per week than non-users, compared to a difference of 4.5 hours per week in 2001.[51] The differences in television viewing become even more pronounced as Internet experience increases; very experienced users (six-plus years experience) reported viewing only 5.8 hours of television per week.[52] As the study concluded,

> The trend throughout the three years of the UCLA Internet Project shows that Internet users may be "buying" their time to go online from hours previously spent viewing television . . . . Just as radio was the victim when television evolved in the early 1950s, now television is becoming the casualty of increasing Internet use.[53]

Not only has Internet use risen, but its importance to consumers has also increased. "In less than eight years as a publicly available communications tool, the Internet is viewed as an important source of information by the vast majority of people who use online technology."[54] In 2002, 60.5 percent of all Internet users considered the Internet to be a very important or extremely important source of information.[55] Indeed, among the most experienced users (online at least six years), the Internet (73 percent) rated higher than books (67 percent), newspaper (57 percent), television (42 percent), and radio (19 percent) as an important source of information.[56]

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[49] *Id.* at 17. The study also showed that Internet access (overall) spans every age range, and in some age ranges, such as individuals 12-15 and 16-18 years of age, access approaches 100 percent. *Id.* at 21. Weekly time online also grows with users' experience; very experienced users (six-plus years online) spend nearly three times as long online each week as do users with less than one year of experience. *Id.* at 22.

[50] *Id.* at 18.

[51] *Id.* at 33.

[52] *Id.* The study also noted that Internet users report lower levels of group television viewing, as a family activity, than do non-users, *id.* at 64, and that children in households with Internet access watch less television than before the household started using the Internet. *Id.* at 67.

[53] *Id.* at 34.

[54] *Id.* at 35.

[55] *Id.*

[56] *Id.*

The *UCLA Internet Report* is just one more demonstration that the Internet has become a true surrogate for more traditional media. Combined with the *Nielsen Survey* and the record materials in Media General's comments evidencing the use and availability of local information over the Internet,[57] this data demonstrate that repeal of the newspaper/broadcast cross-ownership rule will not harm the marketplace of ideas anywhere, regardless of market size.

Conclusion

The vast majority of comments in this proceeding that address the newspaper cross-ownership rule call for its repeal. Ample and empirical evidence has been entered into the record in support of full, complete and final repeal. Those calling for its retention or replacement provide no systematic empirical evidence in support.

Chairman Powell has properly noted, and your remarks last week to the Museum of TV and Radio echoed, that the FCC bears the burden of proof in court to provide an empirical and defensible explanation based on the record either to retain a media ownership rule -- including the newspaper/broadcast cross-ownership rule -- or to replace it with a new rule. No such empirical or defensible explanation is available on the record to the FCC to retain the newspaper cross-ownership rule or to replace it with a similar rule. Some advocates of retaining the rule or developing a similar new rule may point, perhaps in desperation, to some of the studies reviewed in this letter. But, as noted above, those studies provide no such support. We are confident that anyone -- FCC Commissioners, FCC staff, or federal judges-- reviewing these studies will reach the same conclusion as reached by two of the nation's leading economists: there is no support for any form of a newspaper/broadcast cross-ownership rule.

As required by Section 1.1206(b), two copies of this letter are being submitted for each of the above-referenced dockets.

Very truly yours,

John R. Feore, Jr.
M. Anne Swanson

MAS2/tal
Enclosures

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[57] *See, e.g., Media General 2003 Reply Comments* at 15-18; *Media General 2003 Initial Comments* at Appendices 9-14 ("Internet Sites in Converged Markets"); *Media General 2002 Reply Comments* at 8-11; and *Media General 2001 Initial Comments* at Appendices 9-14 ("Internet Sites in Converged Markets").

cc w/encl. (by hand):

The Honorable Michael K. Powell
The Honorable Kevin J. Martin
The Honorable Michael J. Copps
The Honorable Jonathan S. Adelstein
Marsha J. MacBride, Esquire
Susan M. Eid, Esquire
Catherine C. Bohigian, Esquire
Jordan Goldstein, Esquire
Johanna Mikes, Esquire
Stacy Robinson, Esquire
W. Kenneth Ferree, Esquire
Paul Gallant, Esquire
Jane E. Mago, Esquire
Dr. Simon Wilkie
Ms. Marlene H. Dortch (two copies for each docket referenced above)

Critique of "Consumer Substitution Among the Media"

By James N. Rosse

April 16, 2003

1. Introduction

In a paper titled "Consumer Substitution Among the Media," Professor Joel Waldfogel has used two bodies of data to study patterns of media usage by consumers[1]. This study is of interest because of its possible bearing on the continued FCC regulation of cross ownership of daily newspapers and broadcast stations.

Professor Waldfogel uses correlation and regression techniques to study patterns of media supply and usage. When he finds measures from two media co-varying negatively, he describes the media involved as "substitutes" for one another. Although he lays less emphasis on it, he recognizes positive covariance between two media as "complementary." His findings of interest here are that overall uses of broadcast television and daily newspapers have a complementary relationship but a significant substitute relationship when comparing just broadcast TV news usage to daily newspaper usage.[2]

Professor Waldfogel asserts that these results are "...important because FCC media ownership policies are predicated to varying degrees on the extent of substitutability of media for various purposes – news, entertainment, etc."[3] The unspoken implication of his results is, that since broadcast television and daily newspapers are "substitutes" in news reporting, the FCC should retain the cross-ownership rule.

The empirical work in Professor Waldfogel's paper has such flaws that the quantitative results do not provide a meaningful basis for governmental review of a regulation. Moreover, even if the empirical work had been flawless, the structure of that work would not reveal underlying measures of substitution, complementarity, or any other useful information to evaluate the economic merit of a regulation. Consequently, the study does not inform the FCC's evaluation of the newspaper cross-ownership rule and, if taken seriously, could even mislead that evaluation.

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[1] "Consumer Substitution Among Media" by Joel Waldfogel, Federal Communications Commission Media Ownership Working Group 2002-3, September 2002, 81 pages. Waldfogel is a member of the Wharton School faculty at the University of Pennsylvania.

[2] Interestingly, Professor Waldfogel found the "clearest" relationship "between Internet and broadcast TV, both overall and for news." Waldfogel, page 3.

[3] Waldfogel, page 2.

2. Substitutes and Complements

Before looking at Professor Waldfogel's empirical studies, we need to have some definitions and economic principles clearly in mind.

The concepts of "substitutability" and "complementarity" are well defined in economic theory. Two goods are said to be substitutes in demand if, in free market conditions, an increase in the price of one causes demand for the other to increase[4]. They are complements in demand if an increase in the price of one causes demand for the other one to decrease.

The economic concept of *substitutability* is important in studying market competition. If the product of a firm has many close substitutes, then one can be sure that, in free market conditions, the firm will not be able to extract significant monopoly rent by manipulating price. The concept is important in the study of merger activity, for instance, because of the risk that letting two firms producing close substitutes merge will sufficiently isolate them from the producers of other substitute products that they can gain significant monopoly rent by manipulating price.

Notice that the use of substitutability in the study of competition necessarily involves an action and a reaction. The action consists of a price increase by one (or a group of) firm(s). The reaction consists of the direct effect of that action on demand for a single firm's product. If that reaction is positive then the products are substitutes and the firms are said to be competitive with the degree of competition being measured by size of the reaction[5].

Professor Waldfogel's use of the word "substitute" has almost nothing to do with well-established economic concept of substitution. Price never plays a role in his analysis.[6] Consequently, the usual inferences about market structure and regulation that can be made from economic measures of substitution cannot be drawn from Professor Waldfogel's concept.

Professor Waldfogel recognizes, however, that the availability or characteristics of other products might affect demand for a particular product. In a world of mutable products, the classical concept of substitutability can be expanded. For instance, if important qualities of

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[4] On pages 7-8, Waldfogel makes what I presume is a typographical error when he states that "each consumer's demand for each of ten products depends (negatively) on the price of the own product and, if the products are substitutes, negatively *(sic)* on the other products' prices." The latter reference presumably should be *positively*.

[5] This concept lies as the heart of the test applied by the Department of Justice Antitrust Division in evaluating the consequences for competition of proposed mergers.

[6] Of the media reviewed by Waldfogel, only broadcast television and radio do not charge a subscription fee. Although not easily collected, information on both local prices and national price indices for other media—cable, satellite, internet access, magazines, and newspapers—would have been available.

product B are significantly improved and if that improvement results in a reduction in demand for product A, then it is reasonable to call product B a substitute for product A in the eyes of consumers. If there is a substantial response, the products can be said to be close substitutes and, therefore, closely competitive with one another. Thus, two daily newspapers can be quite distinguishable from one another in character and yet be close competitive substitutes for one other in this sense (as well as in other ways).

Notice the sign reversal that has taken place; the substitution effect in price is positive (competitor's price rise means greater demand for own product) while it is negative in quality interaction (competitor's product quality improvement means less demand for own product).

The competition for readers, viewers, and listeners among media outlets is almost entirely carried out in terms of product characteristics, product quality, and image building. Each media outlet is striving to attract an audience that it can sell profitably to its advertisers; it actively shapes the reading, viewing, or listening package it offers consumers in order to attract its desired audience. Since no two media products are ever identical, this is inter-product competition that is carried out largely at the level of the individual producer rather than at the level of media industries. In local markets, the competition frequently crosses media boundaries.

Sorting out Professor Waldfogel's theoretical underpinnings makes clear that there are two essential elements to the concept of substitutability that he is using. There must be both an action and a reaction to establish the presence of substitutability or complementarity. The action is change in the availability or characteristics of alternative products. The reaction is a change in demand for the product in question.

3. Results Using the Time-Series Data

The first body of data that Professor Waldfogel uses consists of combined cross-section and time-series data from several published sources. It includes data on media usage by consumers, numbers of media, and demographic information in the 140 (out of a total of 210) U.S. DMAs for which MSAs and Arbitron metro areas can be linked to the DMAs. Annual data for various time periods from 1993 to 2000 are used, depending on the availability of information. Media include television, daily newspapers, weekly newspapers, radio, internet, and cable TV.

This body of data has some advantages for the purposes Professor Waldfogel has in mind since it is both cross-section (multiple DMAs) and time-series (multiple years). It is not unreasonable to suppose that at least some autonomous change in media availability over time